

**Executive Summary – Enforcement Matter – Case No. 41382**  
**Harris County Municipal Utility District 420**  
**RN105371793**  
**Docket No. 2011-0480-UTL-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

UTL

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Harris County MUD 420, Summerlyn Point Lane near Houston, Harris County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 9, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$475

**Amount Deferred for Expedited Settlement:** \$95

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$380

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41382**  
**Harris County Municipal Utility District 420**  
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***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** March 14, 2011  
**Date(s) of NOE(s):** March 14, 2011

***Violation Information***

Failed to submit to the Executive Director (“ED”) for approval by the required deadline, an adoptable emergency preparedness plan (“EPP”) that demonstrates the Facility's ability to provide emergency operations [30 TEX. ADMIN. CODE §§ 290.39(o)(1) and 291.162(a) and (j) and TEX. WATER CODE § 13.1395(b)(2)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The ED recognizes that on April 1, 2011, the Commission approved an adoptable EPP which demonstrates the Facility's ability to provide emergency operations.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Steven R. Spillette, Secretary, Harris County Municipal Utility District 420, 11302 Tanner Road, Houston, Texas 77041  
John Havenstrite, President, Harris County Municipal Utility District 420, 11302 Tanner Road, Houston, Texas 77041  
**Respondent's Attorney:** Susan Edwards, Allen Boone Humphries Robinson, L.L.P., 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	21-Mar-2011	<b>Screening</b>	21-Mar-2011	<b>EPA Due</b>	
	<b>PCW</b>	21-Mar-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Harris County Municipal Utility District 420
<b>Reg. Ent. Ref. No.</b>	RN105371793
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	41382	<b>No. of Violations</b>	1
<b>Docket No.</b>	2011-0480-UTL-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Utilities	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Andrea Linson-Mgbeodu
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$500

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$500**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **5.0%** Enhancement **Subtotals 2, 3, & 7** **\$25**

Notes Enhancement for one NOV with the same violation.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$50**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$8  
Approx. Cost of Compliance \$328  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$475**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** **\$475**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$475**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$95**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$380**

Screening Date 21-Mar-2011

Docket No. 2011-0480-UTL-E

PCW

Respondent Harris County Municipal Utility District 420

Policy Revision 2 (September 2002)

Case ID No. 41382

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105371793

Media [Statute] Public Water Utilities

Enf. Coordinator Andrea Linson-Mgbeoduru

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV with the same violation.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

Screening Date 21-Mar-2011

Docket No. 2011-0480-UTL-E

PCW

Respondent Harris County Municipal Utility District 420

Policy Revision 2 (September 2002)

Case ID No. 41382

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105371793

Media [Statute] Public Water Utilities

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.39(o)(1) and 291.162(a) and (j) and Tex. Water Code § 13.1395(b)(2)

Violation Description

Failed to submit to the Executive Director for approval by the required deadline, an adoptable emergency preparedness plan ("EPP") that demonstrates the Facility's ability to provide emergency operations.

Base Penalty \$500

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$450

\$50

## Violation Events

Number of Violation Events 10

276 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

Ten monthly events are recommended, calculated from the date the EPP was deemed not adoptable, June 18, 2010, to the date of screening, March 21, 2011.

## Good Faith Efforts to Comply

10.0% Reduction

\$50

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance as of April 1, 2011.

Violation Subtotal \$450

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$475

This violation Final Assessed Penalty (adjusted for limits) \$475

# Economic Benefit Worksheet

**Respondent** Harris County Municipal Utility District 420

**Case ID No.** 41382

**Reg. Ent. Reference No.** RN105371793

**Media** Public Water Utilities

**Violation No.** 1

**Percent Interest** 5.0

**Years of Depreciation** 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$328	1-Oct-2010	1-Apr-2011	0.50	\$8	n/a	\$8

**Notes for DELAYED costs**

The delayed cost includes the estimated amount (\$41/hr labor and administrative cost x 8 hours) to develop and submit an EPP, calculated from the date the plan was due to the date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$328

**TOTAL**

\$8

# Compliance History

Customer/Respondent/Owner-Operator: CN602775611 Harris County Municipal Utility District Classification: Rating:  
420

Regulated Entity: RN105371793 HARRIS COUNTY MUD 420 Classification: Site Rating:  
1013399

ID Number(s): UTILITIES REGISTRATION  
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION

Location: SUMMERLYN POINT LANE NEAR HOUSTON, HARRIS COUNTY, TEXAS  
TCEQ Region:REGION 12 - HOUSTON

Date Compliance History Prepared: March 21, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 21, 2006 to March 21, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 04/23/2010 (799259)  
2 02/11/2011 (895183)  
3 03/14/2011 (906013)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
Date: 02/11/2011 (895183) CN602775611  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.39(o)(1)  
Description: Failed to submit to the Executive Director for approval by the required deadline an adoptable Emergency Preparedness Plan that demonstrates the Facility's ability to provide emergency operations.
- F. Environmental audits. N/A
- G. Type of environmental management systems (EMSs). N/A
- H. Voluntary on-site compliance assessment dates. N/A
- I. Participation in a voluntary pollution reduction program. N/A
- J. Early compliance. N/A

Sites Outside of Texas

N/A





# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
HARRIS COUNTY MUNICIPAL  
UTILITY DISTRICT 420  
RN105371793**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2011-0480-UTL-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Harris County Municipal Utility District 420 ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 13. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Susan Edwards of the law firm Allen Boone Humphries Robinson, L.L.P., appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply on Summerlyn Point Lane near Houston, Harris County, Texas (the "Facility") that has approximately 393 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Respondent owns and operates in Texas, equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use. The Respondent is not exempt from regulation under TEX. WATER CODE ch. 13 or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 19, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Hundred Seventy-Five Dollars (\$475) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Eighty Dollars (\$380) of the administrative penalty and Ninety-Five Dollars (\$95) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director ("ED") of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The ED recognizes that on April 1, 2011, the Commission approved an adoptable emergency preparedness plan ("EPP") which demonstrates the Facility's ability to provide emergency operations.
10. The ED may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have failed to submit to the ED for approval by the required deadline, an adoptable EPP that demonstrates the Facility's ability to provide emergency operations, in violation of 30 TEX. ADMIN. CODE §§ 290.39(o)(1) and 291.162(a) and (j) and TEX. WATER CODE § 13.1395(b)(2), as documented during a record review conducted on March 14, 2011.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Harris County Municipal Utility District 420, Docket No. 2011-0480-UTL-E" to:  
  
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director


10/14/11  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

22/Jun/2011  
Date

STEVEN R. SALATTE  
Name (Printed or typed)  
Authorized Representative of  
Harris County Municipal Utility District 420

SECRETARY  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.